



COUNCIL AGENDA: 05-08-12  
ITEM: 2.21

## *Memorandum*

**TO:** HONORABLE MAYOR AND  
CITY COUNCIL

**FROM:** Dennis Hawkins, CMC  
City Clerk

**SUBJECT:** SEE BELOW

**DATE:** 5-3-12

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**SUBJECT: SB 568 (LOWENTHAL) RECYCLING: POLYSTYRENE FOOD  
CONTAINERS**

### RECOMMENDATION


As recommended by the Rules and Open Government Committee on May 2, 2012 and outlined in the attached memo previously submitted to the Rules and Open Government Committee, approve a support position for SB 568 (Lowenthal) Recycling: Polystyrene Food Containers.



Subject: SB 568 (Lowenthal)  
Recycling: Polystyrene Food Containers

RULES COMMITTEE: 5-02-12  
ITEM: G.4

**Recommend Position: SUPPORT**

City Council Action Request		
<b>Department:</b> Environmental Services	<b>DATE:</b> 05/02/12	<b>Coordination:</b> CMO/CAO/ Legis. Rep in Sacramento/ PRNS
		<b>CMO Approval:</b> 
		<b>Dept. Approval:</b> Kerrie Romanow /s/
<b>RECOMMENDED ACTION:</b>		
<ol style="list-style-type: none"><li>1. Pursuant to the City's streamlined bill process for responding quickly to legislative proposals, approve support for SB 568 (Lowenthal).</li><li>2. Recommend a one-week turnaround to Council, so that the City's legislative staff can advocate for the City's support for SB 568.</li></ol>		
<b>BILL SYNOPSIS:</b>		
<p>This bill would prohibit a food vendor, on and after January 1, 2016, from dispensing prepared food to a customer in a polystyrene foam food container and would define related terms. Food vendors in school districts or local governments with polystyrene foam recycling programs that meet or exceed a 60% recycling rate are exempt.</p>		
<b>IMPACTS TO CITY OF SAN JOSE:</b>		
<p>SB 568 would prohibit the distribution and use of polystyrene foam containers by food vendors for prepared food. It includes definitions for customers, food vendors, polystyrene foam food containers, and prepared food that would effectively prevent all California restaurants and food establishments from serving food in polystyrene foam containers. The proposed law would require San José food vendors to use alternatives that could cost more than polystyrene foam containers. A statewide ban may drive the incremental cost of alternative products down, resulting in prices for alternative products that could be more cost competitive with polystyrene foam containers.</p> <p>SB 568 contains provisions allowing for exemptions to be granted for school districts or local jurisdictions with programs where at least 60% of the polystyrene foam containers generated is recycled. This high recycling rate for food contaminated polystyrene foam food ware constitutes an unprecedented threshold that has not been achieved by any municipal agency or local jurisdiction to date. It would be preferable if SB 568 contained no provision for recycling.</p> <p>According to San José area recyclers, food contaminated polystyrene foam containers are not recyclable under current market conditions. Once contaminated with food, this material becomes unfit for remanufacturing into new products. It can also adversely impact recyclers and compost operations. Once it enters these facilities, polystyrene foam can contaminate other recycled material and down grade commodity prices. Once littered, these containers create a unique and problematic water pollution</p>		

problem because littered polystyrene foam food containers easily break into small pieces that do not degrade, are very difficult to clean up, and are often mistaken for food by marine life. A statewide ban on polystyrene foam food ware would greatly reduce this highly problematic pollutant in the environment. Other forms of disposable packaging will most likely take the place of expanded polystyrene (EPS) such as paper, recyclable plastics, or compostable plastics. However, the unique properties of EPS warrant treating it as a more harmful pollutant in the marine environment than any other likely substitute that might be littered. Furthermore, the alternative products are also better aligned with municipal solid waste diversion programs, as these products can be recycled or composted within most solid waste systems.

A statewide ban would provide all cities in California with the same requirements to stop using EPS food service ware, leveling the playing field for San José restaurants in relation to restaurants in neighboring jurisdictions.

#### **POLICY ALIGNMENT:**

Included in the Council approved 2012 Legislative Guiding Principles and Priorities under "Promote Livability, Sustainable Development, and Environmental Protection" is language supporting pollution prevention practices, protection of local watersheds, procurement of environmentally preferable goods, and support for Source Reduction and increased recycling and composting in order to achieve Zero Waste.

Additionally, under the Municipal Regional Stormwater Permit, which regulates the storm sewer discharges from most Bay Area cities, the City is required to reduce trash and litter entering local waterways from the storm sewer system by 40% by 2014, 70% by 2017, and 100% by 2022. The City of San José, a partner in the Bay Area Stormwater Management Agencies Association, has proposed to the Regional Water Quality Control Board that a citywide ban on the use of polystyrene foam food service ware is an effective means of controlling pollution from polystyrene foam that has been proposed as an enhanced trash control reduction measure. While not currently required to meet the City's 2014 trash reduction goal, an action on polystyrene food service ware will likely be critical to reaching the 2017 or 2022 trash reduction goals. On January 24, 2012, Council approved support for legislation that would implement a state-wide program that would significantly reduce the use of polystyrene foam food service ware.

This action would also align with the City's Green Vision and Zero Waste Goals as it would eliminate a material that is currently not recyclable or compostable.

#### **SUPPORTERS/OPPONENTS:**

RULES AND OPEN GOVERNMENT COMMITTEE

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**Support:**

*Restaurants/Food Service*

Alamo Gelato Italian  
 AXE Restaurant  
 Baja Betty's  
 Bamboo Asia  
 Bangkok Noodles  
 Bar Plnk  
 Big Sur Bakery and Restaurant  
 Big Sur River Inn Restaurant  
 Big Sur River Inn Store  
 Big Sur Roadhouse  
 Café Blanco  
 Café Metropol  
 Center for Tactical Magic  
 Chan Chan Restaurant  
 Chan Dara  
 Classic Organic Farm & Market  
 DaDa Restaurant  
 Deetjens Inn Restaurant  
 Egg Plantation Restaurant  
 Estancia Beef  
 Fernwood Resort and Redwood Grill  
 Fresh MXN Food  
 Gelato Vero Cafe  
 George's at the Cove (Restaurant)  
 Global Gourmet Catering  
 Gossip Grill  
 Grass Rootz Cafe  
 Ike's Quarter Café  
 Jacques Couture  
 Jake's Dei Mar  
 Karl Strauss Brewery Restaurants  
 KD Foods  
 Kiku Sushi  
 Las Pena Cultural Center  
 Lefty's Chicago Pizza  
 Lestat's on the Park  
 McConnell's Fine Ice Creams, Inc.  
 Mediterranean Gourmet Pizza  
 Modo Cafe  
 Morgan's  
 Ocean Beach People's Organic Market  
 Ocean Beach People's Organic Food Coop  
 Onyx Organics  
 Parkhouse Eatery  
 Passion Fish (Café)  
 Phil's Slders  
 Power Source Café  
 Rachos Cocina  
 Rawvolution Café  
 Revive Drinks  
 Rosie Lee's British Foods  
 Sierra Mar at Post Ranch Inn (Restaurant)  
 Stone World Bistro  
 The Tap Room  
 The Linkery  
 Thera Nova, LLC  
 Turkish Kitchen  
 Twiggs  
 Urban Mo's  
 Vesta Flatbread  
 Waterways Consulting  
 Yoppi Yogurt

**Support:**

*Chambers of Commerce (Total businesses represented 3,356)*

Berkeley Chamber of Commerce (347 businesses)  
 Carmel Chamber of Commerce (550 businesses)  
 Carpinteria Valley Chamber of Commerce (400 businesses)  
 Fremont Chamber of Commerce (1000 businesses)  
 Green Chamber of Commerce (151 businesses)  
 Santa Monica Chamber of Commerce (908 businesses)

*Businesses and Business/Green Economy Groups*

4LEAF, Inc.  
 Absolute Wireless Incorporated  
 Acro Sports  
 Accu-Logistics LLC  
 ADEH Environmental  
 All Stages Marketing  
 Allen Associates  
 Alvista America Inc.  
 Amfect LLC  
 Andrew Coffing  
 A.V. Arlas & Co.  
 BACA  
 Barbara Epstein  
 Barkley & Associates  
 BARS+TONE  
 Bay Central Printing  
 Beyond Basics Construction  
 Be Green Packaging, LLC  
 Bear Vault Inc.  
 Big Hearted Films  
 Big Sur Lodge  
 Biosphere Industries  
 Boku International, LLC  
 Bowman Design Group  
 Bring it  
 Brown Custom Woodworking  
 Bruner Interiors  
 Busby Biological Services  
 California Healthy Nail Salon Collaborative  
 CBio, Inc.  
 Cerebrotech Medical Systems  
 Chiara  
 CMC  
 Complete Real Estate  
 Concentric Communication  
 Conservation Value, Inc  
 Cyber-Infrastructure  
 Daniel Hofmann Productions  
 David Clarke Design  
 David J. Romano  
 Davis Jeffries, Architect  
 Diane L Edge DDS  
 DSE  
 Eadoc LLC  
 Eco Greenware

**Support:**

*Businesses and Business/Green Economy Groups*

EcoLayers, Inc.  
 Earth Cup  
 Eduardo Hueso  
 Eileen Siedman  
 Elemental LED  
 Emma Stark  
 ENLUMA  
 Expansive Health Awareness, Inc.  
 Eyeball Photography  
 Fair Ridge Group  
 Fawn River  
 Femto Science  
 FeNa - for everything N anything, LLC  
 Frances Kalfus, O.M.D., L.A.C  
 Full Scale Event Productions  
 Garden Sanctuaries  
 Gemini Benefits Partner  
 George Iny Enterprises Inc.  
 Geyer Lamb  
 Gold Ring Power, LLC  
 Gi Paoletti Design Lab  
 Good Grace's Productions LLC  
 Greenleaf Project Management  
 Grant Foerster Fine Pruning & Plant Care  
 Green Fuse Energy  
 Green Station  
 GWC  
 Habitat Engineering & Forensics  
 Hale House  
 Harmony healing  
 Harmony Organic Gardens  
 House Earth  
 Howerton Construction, Inc.  
 Hugh Salamon  
 Hunter-Gatherer Artifacts  
 Imageworks  
 Imani Lee, Inc.  
 Infinite Functions, Inc.  
 Inn of the Seventh Ray  
 Inner Gardens  
 Institute for Local Self-Reliance  
 Instant Imprints  
 Integrated Resource Management, Inc.  
 John Kelley, AIA Architect  
 Judy Schrieberman  
 Just Transition Alliance  
 Kahi Consultants  
 Kleine Editorial Services  
 Kuuki Biotechnology LLC  
 LA ProPoint, Inc. Lamebrane Records  
 Lam Bentz Vineyard, LLC  
 Larry Chinn  
 Laughing Star Designs  
 LB Designs  
 Leane Eberhart

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## Support:

### *Businesses and Business/Green Economy Groups*

Learning Fundamentals  
 Left Coast Instruments, Inc.  
 Leikam Enterprises, LLC  
 Life Settlement Financial  
 Linden Appraisal Services  
 Lindon Schultz Lindsey Vaillancourt  
 Little Footprint Lighting  
 LMA  
 Lotus Crafts  
 Los Angeles Alliance for a New Economy (LAANE)  
 Louis h. Felthouse Architect Inc.  
 Lundco electric  
 M. E. Sawyer Company  
 Machado Fitness & Self Defense Training  
 Marcy Wong Donn Logan Architects  
 MARI-FLITE Ferries, Inc.  
 Marianna Mejia  
 Marstel-Day, LLC  
 Mary's Green and Clean Handcrafted Soaps  
 McVay & Co. Builders  
 MD Resource Corporation  
 Metabo Scientia  
 Mineta San Jose International Airport (Airport Environmental)  
 Mohave Power Co. Inc  
 Mondo Life, Inc.  
 Moving Picture Weddings  
 Music Interactive  
 Native Designs  
 Natural Cleaning Products USA  
 Oakhurst Technology  
 Ocean Conservation Society  
 Ocean Innovations  
 Octy, Inc  
 Pacific Builders  
 Pacific Ink, Inc.  
 Pacific Latex Products / Malgam Ent. Inc  
 Parallel Interactive Communications  
 Party Lite candles / Candlescaping by Paula  
 Patricia Owen  
 Phillip Auerbach  
 Pinnacle Installations, Inc.  
 Polyglot Ltd.  
 Pool Dan  
 Precision Powder Coatings  
 Premium Roofing & Waterproofing  
 Prima Collections  
 Pundlr Group, Inc  
 Quality Plano Tuning  
 Redpoint Engineering  
 Renewable Energy Consultant  
 Richards & Sterling  
 Ripplewood Resort  
 Robert Cronin  
 Rosales Business Partners LLC  
 RV-ID, Inc.

## Support:

### *Businesses and Business/Green Economy Groups*

Santa Cruz Fire Equipment Company  
 Save The Whales  
 SCOPE\*TEK  
 Scott Johnson Consulting  
 Seat Advisor  
 Sfnnewsfeed.us  
 Shaktiart  
 Shen Wei (USA) Inc.  
 Sherpali  
 Sierra Solar Systems  
 Sierra Wealth Advisors  
 Silent Tribunal LLC  
 Slatter Construction, Inc.  
 Solar Wind Works  
 Solectric Electric  
 Sound Service Company  
 Spottswoode Winery, Inc.  
 Starlight Productions  
 Starlight School  
 State Farm-Julie Cook, agent  
 Stein Neurology  
 Steve Nice Consulting  
 Sue White  
 Suisun Creek Vineyards  
 Susanne Moser Research & Consulting  
 SWERVE  
 TaterWare  
 The Valley Women's Club  
 Tegrus Builders Inc.  
 The Added Edge, Inc.  
 The MacPete Law Firm  
 The Rosebud Agency  
 The Soul Mine  
 The Tucker Schoeman Venture (architects)  
 Thrive Eco Solutions Inc  
 Tierra Sol y Mar, Inc.  
 Tim Brophy Construction  
 Tim Devine Musical Services  
 Timesmithing  
 Tom Sawyer Software  
 Treehouse Design Partnership  
 TSA Contracting, Inc.  
 UCSD  
 United States Green Building Council  
 (California Advocacy Committee)  
 V8 Media  
 Vicki L. Cyr, C.P.A.  
 Victoria M. Armigo, EA  
 Vigltron  
 VIVA Transcription Corporation  
 Viv Biz Club  
 White Wolf Journeys  
 William Marlner, D.C.  
 Work It Out, Inc.  
 Write to the Heart  
 World Centric  
 Zone One Pharmacy

## Support:

### *Neighborhood Councils and Associations (Total population represented 755,550)*

Downtown Los Angeles  
 Neighborhood Council (represents 25,355 people)  
 Greater Griffith Park Neighborhood Council (represents 37,236 people)  
 Mar Vista Community Council (represents 55,000 people)  
 North Hills East Neighborhood Council (represents 29,250 people)  
 North Hollywood North East Neighborhood Council (represents 12,000 people)  
 Palms Neighborhood Council (represents over 30,000 people)  
 Reseda Neighborhood Council (represents 66,575 people)  
 San Fernando Valley Young Democrats  
 Silver Lake Neighborhood Council (represents 34,675 people)  
 South Robertson Neighborhood Council (represents 45,000 people)  
 Sun Valley Area Neighborhood Council (represents 81,788 people)  
 Tarzana Neighborhood Council (represents 37,778 people)  
 United Neighborhoods Neighborhood Council (represents 70,472 people)  
 Van Nuys Neighborhood Council (represents 110,747 people)  
 Venice Neighborhood Council (represents 40,885 people)  
 West Los Angeles Neighborhood Council (represents 30,873 people)  
 Westwood Neighborhood Council (represents 47,916 people)

### *Environmental Justice/ Health and Worker Safety*

Black Women for Wellness  
 Breast Cancer Fund  
 California Rural Legal Assistance Foundation  
 Environmental Justice Coalition for Water  
 Great Beginnings for Black Babies, Inc.  
 Orange County Interfaith Coalition for the Environment  
 Pacoima Beautiful  
 Physicians for Social Responsibility  
 Los Angeles  
 Worksafe, Inc

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**Support:**

*Local Government (Total population represented 8,934,746)*

City of Arcata  
 City of Belmont (population 24,918)  
 City of Calabasas (population 23,058)  
 City of Capitola (population 9,781)  
 City of Carpinteria (population 13,040)  
 City of Culver City (population 38,883)  
 City of Encinitas (population 59,518)  
 City of Glendale (population 191,719)  
 City of Long Beach (population 462,257)  
 City of Los Angeles (population 3,800,000)  
 City of Manhattan Beach (population 35,135)  
 City of Millbrae (population 21,257)  
 City of Monterey (population 27,810)  
 City of Oakland (population 390,724)  
 City of Palo Alto (population 61,200)  
 City of Pasadena (population 137,122)  
 City of Richmond (population 103,166)  
 City of San Clemente (population 61,610)  
 City of Santa Cruz (population 59,946)  
 City of Santa Monica (population 87,563)  
 City of Sebastopol (population 7,379)  
 City of Ventura (population 110,813)  
 City of West Hollywood (population 34,399)  
 City and County of San Francisco (population 815,358)  
 County of Los Angeles (unincorporated population 1,000,000 +)  
 County of Monterey (unincorporated population 158,561)  
 County of Santa Clara (unincorporated population 900,000)  
 County of Santa Cruz (unincorporated population 129,161)  
 County of Sonoma (unincorporated population 146,238)  
 Town of Fairfax (population 7,099)

*Labor Organizations*

California Federation of Teachers (CFT)  
 California Teamsters Public Affairs Council

*Schools and School Workers*

Cabrillo College  
 California School Nutrition Association  
 Sacramento Unified School District, Superintendent

**Support:**

*Sanitation Districts, Refuse Workers, Recyclers and Composters*

California Refuse Recycling Council (CRRCC)  
 California Resource Recovery Association  
 East Bay Municipal Utility District  
 Central Contra Costa Solid Waste Authority  
 Los Angeles County Solid Waste Management Committee / Integrated Waste Management Task Force  
 Marin County Hazardous and Solid Waste Management Joint Powers Authority  
 Marin Sanitary Service  
 Monterey Regional Waste Management District  
 Napa Recycling and Waste Services  
 Recology  
 Salinas Valley Solid Waste Authority  
 Santa Clara Valley Water District  
 Solid Waste Association of North America, California Chapters (SWANA)  
 Sonoma County Waste Management Agency  
 StopWaste.Org (Alameda County Waste Management Authority)  
 Waste Connections Inc.

*Labor Organizations*

California Federation of Teachers (CFT)  
 California Teamsters Public Affairs Council

*Schools and School Workers*

Cabrillo College  
 California School Nutrition Association  
 Sacramento Unified School District, Superintendent

**Opposition:**

Alliance of Foam Packaging Recyclers  
 American Chemistry Council  
 Black Business and Professional Association  
 Brawley Chamber of Commerce  
 California Chamber of Commerce  
 California Film Extruders and Converters Association  
 California Forestry Association  
 California Grocers Association  
 California Manufacturers and Technology Association  
 California Restaurant Association  
 Chambers Alliance of Ventura and Santa Barbara Counties  
 Dart Container Corporation  
 El Centro Chamber of Commerce and Visitors Bureau  
 El Monte/South El Monte Chamber of Commerce  
 Food Service Packaging Institute  
 Fullerton Chamber of Commerce  
 Greater Bakersfield Chamber of Commerce  
 Greater Corona Chamber of Commerce  
 Greater Fresno Area Chamber of Commerce  
 Industrial Environmental Association  
 Lake Elsinore Valley Chamber of Commerce  
 Lamoore Chamber of Commerce  
 Long Beach Chamber of Commerce  
 Los Angeles Area Chamber of Commerce  
 Manhattan Beach Chamber of Commerce  
 Monterey Park Chamber of Commerce  
 Murrieta Chamber of Commerce  
 National Federation of Independent Business  
 Natural Environmental Protection Company  
 Oxnard Chamber of Commerce  
 Pacific Corporation  
 Rendon Beach Chamber of Commerce  
 Regional Black Chamber, San Fernando Valley  
 Seawright Custom Precast, Inc.  
 Society of the Plastics Industry  
 South Bay Association of Chambers of Commerce  
 Southwest California Legislative Council  
 Stockton Chamber of Commerce  
 Temecula Valley Chamber of Commerce  
 The Dardanelle Group  
 Valley Industry and Commerce Association  
 Wildomar Chamber of Commerce  
 72 Individuals

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<b>STATUS OF BILL:</b>
Ordered to inactive file on request of Assembly Member Allen (9/8/11). Passed out of the Assembly Appropriations Committee (8/25/11). Last amended on 7/12/11.
<b>FOR QUESTIONS, CONTACT:</b> Elaine Marshall, Environmental Services, at 408-535-5355